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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/706,294	11/03/2000	Jennifer Elizabeth Pozniak	14541.1	6744

7590 12/31/2001

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EXAMINER

WEBB, JAMISUE A

ART UNIT	PAPER NUMBER
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3761

4

DATE MAILED: 12/31/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/706,294

Applicant(s)

POZNIAK ET AL.

Examiner

Jamisue A. Webb

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)).

2. It should be noted, that the applicant has called the application a continuation in part, but has failed to put in the declaration or the specification, what application and/or US patent this is a continuation-in-part of.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 1 recites the limitation "said side edge of said absorbent chassis" in lines 13 and 16. There is insufficient antecedent basis for this limitation in the claim. Previously in the claim the applicant has claimed a pair of laterally opposed side edges, are these the same side edges, and if so, it is unclear which side edge the claim is referring to.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, 10-12, 14-17, and 19-21 rejected under 35 U.S.C. 102(b) as being anticipated by Long et al. (5,624,429).

8. With respect to Claim 1, 8, 14 and 17: Long discloses an absorbent article (20) with a front waist region (38), a back waist region (40) and a crotch region located there between (42). Long discloses an absorbent chassis with laterally opposed side edges, and a pair of longitudinally opposed waist edges, forming a waist opening and leg openings, and a pair of opposed side panels located in the front and back waist regions (see Figure 1). Long discloses each of the panels having a first side margin (90) that is permanently attached to the side edge in the back waist region, and a second side margin (56) that is releasably attached to the front waist region, using fasteners 54. Long discloses the fasteners are permanently attached to the second side margin (see Figure 1), where the fastener defines a fastener edge (64) which has a length that is shorter than the releasable joint of the second margin (54) (see Figure 3).

9. With respect to Claim 2 and 15: Long discloses an outer cover (22), a body side liner (24) and an absorbent core (26) located there between.

10. With respect to Claim 3, 6 and 15: Long discloses the fasteners configured to releasably engage the outer cover (See figure 1).

11. With respect to Claim 4: See column 15, lines 41-52.

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12. With respect to Claim 5: Long discloses that an attachment panel (78) can be used.
13. With respect to Claim 7 and 16: see column 13, lines 21-27.
14. With respect to Claim 10, 11, 19 and 20: Long discloses fastener ears (64) (see figure 4) that are stretchable in the lateral direction (column 13, lines 21-27).
15. With respect to Claim 12 and 21: The examiner considers the hook and loop type fasteners to be a releasable bond.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
18. Claims 23-26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (5,624,429).

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19. With respect to Claims 23 and 26: Long discloses an absorbent article (20) with a front waist region (38), a back waist region (40) and a crotch region located there between (42). Long discloses an absorbent chassis with laterally opposed side edges, and a pair of longitudinally opposed waist edges, forming a waist opening and leg openings, and a pair of opposed side panels located in the front and back waist regions (see Figure 1). Long discloses each of the panels having a first side margin (90) that is permanently attached to the side edge in the back waist region, and a second side margin (56). Long discloses the fasteners are permanently attached to the second side margin (see Figure 1), where the fastener defines a fastener edge (64) which has a length that is shorter than the releasable joint of the second margin (54) (see Figure 3).

20. Long discloses the claimed invention except for the second side margin being permanently bonded to the front waist, and the fasteners releasably engaging the first and second side margins together. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the second side margin be permanently bonded to the front waist, and the fastener releasably engaging the first and second side margins, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

21. With respect to Claim 24: Long discloses an outer cover (22), a body side liner (24) and an absorbent core (26) located there between.

22. With respect to Claim 24: Long discloses the fasteners configured to releasably engage the outer cover (See figure 1).

23. With respect to Claim 25: see column 13, lines 21-27.

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24. With respect to Claim 28 and 29: Long discloses fastener ears (64) (see figure 4) that are stretchable in the lateral direction (column 13, lines 21-27).

25. With respect to Claim 30: The examiner considers the hook and loop type fasteners to be a releasable bond.

26. Claims 9, 18 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. (5,624,429).

27. Long discloses the claimed invention except for the releasable bond of the second margin being three times greater in length than of the fastener edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have to length of the releasable bond being three times greater than the length of the fastener edge, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

28. Claims 13, 22, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Long et al. in view of Elsberg (WO 99/65438).

29. Long, as disclosed for Claims 1, 14, and 23 above, fails to teach the use of the releasable joints including releasable bonds that are ultrasonic bonds. Elsberg discloses the use of passive side bonds (80 and 82) that can be ultrasonic point bonds (see page 24, line 32). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the releasable joint of Long, include the ultrasonic points bonds of Elsberg, in order to prevent the side edges and waist edges from rolling over as the diaper is pulled on. (See Elsberg page 22)


Conclusion

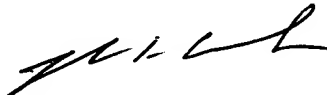
30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. VanGompel et al (6,030,373), Ando (5,370,634), Toyoda et al. (5,916,207), Pozniak et al. (6,045,543), Fries et al. (5,549,592), Zehner et al. (5,605,735), and Surprise et al. (5,899,896) disclose side edges with side margins containing releasable and permanent bonds.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw 
December 13, 2001


John G. Weiss
Supervisory Patent Examiner
Group 3700